

AMENDED IN SENATE MAY 11, 2005
AMENDED IN SENATE APRIL 26, 2005
AMENDED IN SENATE APRIL 12, 2005

SENATE BILL

No. 326

Introduced by Senator Dunn

(Principal coauthor: Assembly Member Arambula)

(Coauthor: Assembly Member Torrico)

February 16, 2005

An act to amend Section 65589.4 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as amended, Dunn. Land use: housing elements.

Existing law requires a multifamily residential housing project to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions. Among those conditions are that the project is subject to a discretionary decision, other than a conditional use permit, and a negative or mitigated negative declaration has been adopted for the project under the California Environmental Quality Act (CEQA). Existing law permits the negative or mitigated negative declaration to be adopted only after a public hearing to receive comments on that declaration if a public hearing is not held with respect to the discretionary decision.

This bill would revise these provisions to apply only to an attached housing development, as defined, on any parcel zoned for *an* attached housing *development*.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65589.4 of the Government Code is
2 amended to read:
3 65589.4. (a) An attached housing development shall be a
4 permitted use not subject to a conditional use permit on any
5 parcel zoned for ~~attached housing~~ *an attached housing*
6 *development* if it satisfies the requirements of subdivision (b) and
7 either of the following:
8 (1) The *attached* housing development satisfies the criteria of
9 Section 21159.22, 21159.23, or 21159.24 of the Public Resources
10 Code.
11 (2) The *attached* housing development meets all of the
12 following criteria:
13 (A) The *attached* housing development is subject to a
14 discretionary decision other than a conditional use permit and a
15 negative declaration or mitigated negative declaration has been
16 adopted for the *attached* housing development under the
17 California Environmental Quality Act (Division 13 (commencing
18 with Section 21000) of the Public Resources Code). If no public
19 hearing is held with respect to the discretionary decision, then the
20 negative declaration or mitigated negative declaration for the
21 *attached* housing development may be adopted only after a
22 public hearing to receive comments on the negative declaration
23 or mitigated negative declaration.
24 (B) The *attached* housing development is consistent with both
25 the jurisdiction's zoning ordinance and general plan as it existed
26 on the date the application was deemed complete, except that ~~a~~
27 *an attached* housing development shall not be deemed to be
28 inconsistent with the zoning designation for the site if that zoning
29 designation is inconsistent with the general plan only because the
30 *attached* housing development site has not been rezoned to
31 conform with the most recent adopted general plan.
32 (C) The *attached* housing development is located in an area
33 that is covered by one of the following documents that has been
34 adopted by the jurisdiction within five years of the date the

1 application for the *attached* housing development was deemed
2 complete:

3 (i) A general plan.
4 (ii) A revision or update to the general plan that includes at
5 least the land use and circulation elements.

6 (iii) An applicable community plan.

7 (iv) An applicable specific plan.

8 (D) The *attached* housing development consists of not more
9 than 100 residential units with a minimum density of not less
10 than 12 units per acre.

11 (E) The *attached* housing development is located in an
12 urbanized area as defined in Section 21071 of the Public
13 Resources Code or within a census-defined place with population
14 density of at least 5,000 persons per square mile or, if the
15 *attached* housing development consists of 50 or fewer units,
16 within an incorporated city with a population density of at least
17 2,500 persons per square mile and a total population of at least
18 25,000 persons.

19 (F) The *attached* housing development is located on an infill
20 site as defined in Section 21061.0.5 of the Public Resources
21 Code.

22 (b) At least 10 percent of the units of the attached housing
23 development shall be available at affordable housing cost to very
24 low income households, as defined in Section 50105 of the
25 Health and Safety Code, or at least 20 percent of the units of the
26 housing development shall be available at affordable housing
27 cost to lower income households, as defined in Section 50079.5
28 of the Health and Safety Code, or at least 50 percent of the units
29 of the housing development available at affordable housing cost
30 to moderate-income households, consistent with Section 50052.5
31 of the Health and Safety Code. The developer of the attached
32 housing development shall provide sufficient legal commitments
33 to the local agency to ensure the continued availability and use of
34 the housing units for very low, low-, or moderate-income
35 households for a period of at least 30 years.

36 (c) Nothing in this section shall prohibit a local agency from
37 applying design and site review standards in existence on the
38 date the application was deemed complete.

1 (d) The provisions of this section are independent of any
2 obligation of a jurisdiction pursuant to subdivision (c) of Section
3 65583 to identify multifamily sites developable by right.

4 (e) This section does not apply to the issuance of coastal
5 development permits pursuant to the California Coastal Act
6 (Division 20 (commencing with Section 30000) of the Public
7 Resources Code).

8 (f) This section does not relieve a public agency from
9 complying with the California Environmental Quality Act
10 (Division 13 (commencing with Section 21000) of the Public
11 Resources Code) or relieve an applicant or public agency from
12 complying with the Subdivision Map Act (Division 2
13 (commencing with Section 66473)).

14 (g) For purposes of this section, “attached housing
15 development” means a *newly constructed* structure containing
16 two or more dwelling units *and consisting only of residential*
17 *units*.